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The subject specification shows that release rate of the implants constitutes a basic characteristic of the claimed implants

The subject specification states:

"The surgically implantable preparations of the present invention are designed to last for months to years" (subject specification page 7, lines 33-34).

"Haloperidol released from the bioerodible implant of the present invention maintains its bioactivity and is delivered at steady state concentrations to the patients for periods of five months or more" (page 13, lines 11-15).

Thus, the subject specification clearly shows that Applicants consider release rate of the implants to constitute a basic characteristic of the claimed implants. In view of this teaching of the subject specification, the basic characteristics of polymer of Mao are materially altered from the claimed implants of the subject invention. Accordingly, the polymer of Mao is excluded by the phrase "consisting essentially of polylactide or lactide-co-glycolide copolymer" in the subject claims.

For the sake of completeness, Applicants now reproduce the evidence that (a) the polymers of Mao differ from those of the present invention in that the polymers of Mao contain a phosphate ester linkage, which is not present in either polylactide or lactide-co-glycolide copolymers; and (b) the phosphate ester linkages materially change the degradation

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